

THIRTY-THIRD DAY
(Thursday, March 8, 1979)

The Senate met at 11:00 o'clock a.m., pursuant to adjournment, and was called to order by the President.

The roll was called and the following Senators were present: Andujar, Blake, Braecklein, Brooks, Clower, Creighton, Doggett, Farabec, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, Meier, Mengden, Moore, Ogg, Parker, Patman, Price, Santiesteban, Schwartz, Short, Snelson, Traeger, Truan, Williams.

Absent-excused: Mauzy, McKnight, Vale.

A quorum was announced present.

The Reverend Susan Denham, University Baptist Church, Austin, offered the invocation as follows:

Dear Lord, Give us wisdom for this day. Help us to remember that we are not judged by whether we succeed in our own priorities, rather we are judged by whether we feed the hungry, visit the sick, lift the burdens of the oppressed. Today, Lord, help us to make our agenda according to Your will. Amen.

On motion of Senator Moore and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

LEAVES OF ABSENCE

Senator Mauzy was granted leave of absence for today on account of important business on motion of Senator Clower.

Senator Vale was granted leave of absence for today on account of important business on motion of Senator Williams.

Senator McKnight was granted leave of absence for today on account of important business on motion of Senator Moore.

BILL AND RESOLUTION SIGNED

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bill and resolution:

H.C.R. 5
H.B. 466

MESSAGE FROM THE HOUSE

House Chamber
March 8, 1979

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I AM DIRECTED BY THE HOUSE TO INFORM THE SENATE THAT THE HOUSE HAS PASSED THE FOLLOWING:

HB 23, A bill to be entitled An Act relating to acquisition of errors and omissions policies by certain insurance agents; amending Section 2(b), Article 21.07, Insurance Code, as amended.

HB 468, A bill to be entitled An Act relating to assignment of rights of support by applicants for and recipients of aid to families with dependent children.

HB 673, A bill to be entitled An Act relating to the printing and distribution of child abuse report forms.

HB 732, A bill to be entitled An Act relating to the amount that a state bank may invest in another state bank.

HB 857, A bill to be entitled An Act relating to the dates on which incorporated cities and towns may hold elections.

HB 1094, A bill to be entitled An Act relating to the time period during which the state may amend its motion to revoke probation.

S.C.R. 34 commending John V. McMillan for his contributions to Fort Worth and Texas

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

CO-AUTHOR OF SENATE BILL 812

On motion of Senator Traeger and by unanimous consent, Senator Truan will be shown as Co-author of **S.B. 812**.

CO-AUTHOR OF SENATE BILL 525

On motion of Senator Snelson and by unanimous consent, Senator Longoria will be shown as Co-author of **S.B. 525**.

REPORTS OF STANDING COMMITTEES

Senator Snelson submitted the following report for the Committee on Intergovernmental Relations:

C.S.S.B. 430
S.B. 542
H.B. 346
S.B. 77
S.B. 406

Senator Brooks submitted the following report for the Committee on Human Resources:

C.S.S.B. 273 (Read first time)

C.S.S.B. 4 (Read first time)

Senator Patman, Vice-Chairman submitted the following report for the Committee on Education:

S.C.R. 33

Senator Moore submitted the following report for the Committee on State Affairs:

S.B. 682

S.B. 706

S.B. 707

S.B. 379

S.B. 471

C.S.S.B. 384 (Read first time)

C.S.S.J.R. 13 (Read first time)

Senator Schwartz submitted the following report for the Committee on Natural Resources:

C.S.S.B. 401 (Read first time)

C.S.S.B. 50 (Read first time)

C.S.S.B. 402 (Read first time)

C.S.S.B. 486 (Read first time)

C.S.S.B. 300 (Read first time)

C.S.S.B. 521 (Read first time)

C.S.S.B. 499 (Read first time)

C.S.S.B. 41 (Read first time)

HOUSE BILLS ON FIRST READING

The following bills received from the House were read the first time and referred to the Committee indicated:

H.B. 272, To Committee on Economic Development.

H.B. 542, To Committee on State Affairs.

SENATE BILLS AND RESOLUTIONS ON FIRST READING

The following bills and resolutions were introduced, read first time and referred to the Committee indicated:

S.B. 792 by Ogg Intergovernmental Relations
Relating to the appointment and assignment of bailiffs and process servers to the Criminal District Courts of Harris County, Texas.

S.B. 808 by Mengden State Affairs
Relating to statements regarding motorcycle helmets.

S.B. 809 by Mengden Intergovernmental Relations
Relating to longevity pay for full-time deputy constables.

S.B. 810 by McKnight Finance
Relating to the imposition, collection, administration, civil and criminal enforcement, and allocation of taxes on motor fuels.

S.B. 812 by Traeger, Truan State Affairs
Relating to the Employees Retirement System of Texas: amending Subsection "B" "3" of Section 1 of Senate Bill No. 756, Chapter 279, Volume 1 of the General and Special Laws of Texas, Acts 65th Legislature, Regular Session, 1977; providing for creditable service for retirement purposes in certain situations, providing an effective date; providing for repeal of conflicting provisions of statutes; and declaring an emergency.

S.B. 813 by Harris State Affairs
Relating to the filing of articles of incorporation.

S.B. 814 by Harris Intergovernmental Relations
Relating to the validation of proceedings authorizing the issuance of certificates of obligation; and declaring an emergency.

S.B. 815 by Andujar Human Resources
Relating to the definition of "test year" for public utility regulation.

S.B. 816 by Meier State Affairs
Relating to the centralized state regulation of occupations covered by specified agencies.

S.B. 817 by Meier Economic Development
Relating to the right of a foreign corporation to transact a trust business in the state.

S.B. 818 by Meier Economic Development
Relating to the substitution of fiduciary appointments and declaring an emergency.

S.B. 819 by Traeger Economic Development
Relating to the regulation of motion picture distributors; providing penalties.

S.B. 820 by Traeger Economic Development
Relating to the distribution of motion pictures; providing penalties.

S.B. 821 by Longoria Jurisprudence
Relating to the selection of grand jurors.

S.B. 822 by Longoria State Affairs
Relating to registration of motor vehicles.

S.B. 823 by Ogg Intergovernmental Relations
Relating to the payment of jurors.

S.B. 824 by Ogg Intergovernmental Relations
Relating to the bond, oath and insurance required of district clerks, their deputies and employees.

S.B. 825 by Ogg Jurisprudence
Relating to the regulation of the automobile salvage business by expanding and adding certain definitions.

S.B. 826 by Ogg

Jurisprudence

Relating to the possession, sale or offering for sale of a motor vehicle or any part of a motor vehicle that has had the serial number, motor number, or the manufacturer's permanent identification number removed, changed or obliterated.

S.B. 827 by Ogg

Intergovernmental Relations

Amending Chapter 495, Acts of the 55th Legislature (Article 1182c-4, Vernon's Texas Civil Statutes), relating to the authorization of certain cities to issue voted but unissued bonds of certain conservation and reclamation districts annexed and abolished by cities; adding municipal utility districts as a certain water district embraced by this Act; and declaring an emergency.

S.B. 828 by Brooks, Price

Human Resources

Relating to the regulation of adult day care and adult day health care programs.

S.B. 829 by Brooks

Human Resources

Relating to respite care provided by licensed nursing, convalescent, and foster care homes.

S.B. 830 by Brooks

Human Resources

Relating to a demonstration project for medical assistance to certain medically needy persons.

S.B. 831 by Farabee

Jurisprudence

Relating to fair and reasonable charges for medical aid, hospital services, chiropractic services, nursing services or medicines furnished in workers' compensation claims, providing for attorney's fees and penalty for appeals of awards from the Board.

S.B. 832 by Farabee

Jurisprudence

Relating to the duty of physicians to furnish medical reports in workers' compensation claims.

S.B. 833 by McKnight

State Affairs

Relating to the definition of gas utility, public utility, and utility for certain purposes.

S.B. 834 by Patman

Human Resources

Relating to tests for phenylketonuria and other heritable diseases and approval of laboratories making those tests.

S.B. 835 by Patman

Human Resources

Relating to eligibility for and duties of reimbursement for physical restoration services for crippled children.

S.B. 836 by Patman

Economic Development

Relating to the disclosure of information by state savings and loan associations concerning certain loans.

S.B. 837 by Patman

Economic Development

Relating to a requirement that a savings and loan association meet the needs of the community.

S.B. 838 by Patman Economic Development
Relating to the disclosure of ownership of voting shares and voting rights of shares of savings and loan associations by foreign investors.

S.B. 839 by Braecklein Intergovernmental Relations
Relating to the method of competitive bidding in the award of contracts for the construction, alteration or repair of public works; and declaring an emergency.

S.B. 840 by Braecklein Human Resources
Authorizing cities and counties to create and utilize public nonprofit corporations for the purpose of providing a means of financing the cost of residential ownership and development that will provide decent, safe, and sanitary housing for residents; defining terms; prescribing the procedure for the creation, organization and dissolution of a corporation; prescribing the powers of a corporation; providing for the issuance, payment, security and characteristics of a corporation's bonds; providing for exemption from taxation of properties of a corporation; enacting other provisions relating to the subject; providing for the cumulative effect of the act; providing a severability clause; and declaring an emergency.

S.B. 841 by Braecklein Human Resources
Creating a public agency of the State of Texas to be known as the Texas Housing Finance Authority, and prescribing its purposes; defining terms; authorizing the authority to issue revenue bonds to provide money for its purposes, including primarily the providing of dwelling accommodations for persons of low income; prescribing the governing board, organization, functions, operation, powers, and duties of the authority; providing for the payment and security of the authority's bonds; prescribing the characteristics of the authority's bonds; providing for refunding the authority's bonds; providing for a reserve fund or funds for the authority's bonds, to be established with the state treasurer or at any other place or places, and to be funded and maintained with bond proceeds or other resources of the authority; enacting other provisions relating to the subject; providing for the cumulative effect of the Act; providing a severability clause; and declaring an emergency.

S.B. 842 by Traeger Human Resources
Relating to regulation of the performance of abortions; providing penalties.

S.B. 843 by Jones of Harris Intergovernmental Relations
Relating to the creation of the County Criminal Court at Law No. 10 of Harris County: defining of the court; fixing terms; providing for the appointment and election; term of office; qualifications and compensation of the judge; providing for exchange of benches and judges; providing the duties of officers of the court and necessary personnel; making other provisions relative to the court; providing an effective date; and declaring an emergency.

S.B. 844 by Jones of Harris Jurisprudence
Relating to providing uniform adult probation and supervision of persons convicted of criminal offenses; amending, Article 42.12, Code of Criminal Procedure, as amended; repealing Article 42.13, Code of Criminal Procedure; repealing Chapter 164, Acts of the 59th Legislature, Regular Session, 1965 (Article 784a, Vernon's Texas Code of Criminal Procedure); and declaring an emergency.

- S.B. 845** by Price Economic Development
Relating to increases in motor vehicle insurance premiums for certain traffic law violations.
- S.B. 846** by Parker Jurisprudence
Relating to offenses involving assault of a peace officer or a participant in a court proceeding.
- S.B. 847** by Parker Jurisprudence
Relating to the offense of failure to identify as a witness.
- S.B. 848** by Parker Jurisprudence
Relating to notification to parties of pleadings and orders in a criminal case.
- S.B. 849** by Parker Jurisprudence
Relating to the manner of serving a subpoena.
- S.B. 851** by Parker Jurisprudence
Relating to the presence of the defendant in a criminal proceeding.
- S.B. 852** by Parker Jurisprudence
Relating to the forfeiture of a bail bond.
- S.B. 853** by Parker Jurisprudence
Relating to voir dire examinations in criminal cases.
- S.B. 854** by Parker Jurisprudence
Relating to admonitions by the court to the defendant before accepting a plea of guilty or nolo contendere.
- S.B. 855** by Parker Jurisprudence
Relating to requested special charges in criminal cases.
- S.B. 856** by Parker Jurisprudence
Relating to notice to the petitioner of a motion, answer, or other pleading filed by the attorney for the state in a habeas corpus proceeding or of orders of the court relating to the proceeding.
- S.B. 857** by Parker Jurisprudence
Relating to notice of the trial court's approval of the appellate record in a criminal case.
- S.B. 858** by Parker Jurisprudence
Relating to the conditions of probation granted under a deferred adjudication of guilt.
- S.B. 859** by Parker Jurisprudence
Relating to filing appellate briefs with the Court of Criminal Appeals.
- S.B. 860** by Parker Jurisprudence
Relating to indictment or information in a criminal case.
- S.B. 861** by Parker Jurisprudence
Relating to notification to the court of criminal appeals when its mandate has been carried out.

S.B. 862 by Schwartz State Affairs
Relating to the deposit of state publications in state depository libraries.

S.B. 863 by Schwartz Human Resources
Relating to the office of public interest of the Texas Department of Water Resources.

S.B. 864 by Howard Intergovernmental Relations
Relating to the joint construction, financing, operation, and management of a justice center on the state line by certain municipalities and counties in this state and in an adjoining state.

S.B. 865 by Schwartz Intergovernmental Relations
Relating to withdrawal of a city from a rapid transit authority.

S.B. 866 by Jones of Harris Jurisprudence
Relating to service of documents in civil or probate proceedings by persons other than the sheriff or constable.

S.B. 867 by Farabee Human Resources
Relating to providing patient services for individuals entitled to care in authorized programs of the Texas Department of Health in State operated medical treatment facilities; and declaring an emergency.

S.B. 868 by Farabee Human Resources
Relating to the diagnosis and care of persons having tuberculosis; amending Sections 3, 4, 5, 6, 7, 8, 9, 11, 12, 14, 15, 17, 18 and 19; repealing Sections 10, 13 and 16; and adding a new Section 4A to the Texas Tuberculosis Code, Chapter 181, page 379, Acts of the 56th Legislature, 1959, as amended (Article 4477-11, Vernon's Texas Civil Statutes); changing the penalties and declaring an emergency.

S.B. 869 by Brooks Human Resources
Relating to the appointment of advisory committees by the Texas Board of Health.

S.B. 870 by Brooks Human Resources
Relating to the regulation of lay midwives; providing penalties.

S.B. 871 by Brooks Human Resources
Relating to the creation, operation, and regulation of health maintenance organizations to provide dental care and services.

S.B. 872 by Brooks Human Resources
Relating to examinations for tuberculosis for certain paid and volunteer employees of school districts.

S.B. 873 by Schwartz Economic Development
Relating to the eligibility of certain nonprofit entities to hold legal or beneficial ownership of stock in a bank or savings and loan association.

S.B. 874 by Mauzy Jurisprudence
Relating to application of general workers' compensation laws to certain special workers' compensation programs.

S.B. 875 by Mauzy Jurisprudence
Relating to the initial medical report on workers' compensation claimants.

S.B. 876 by Farabee Jurisprudence
Relating to information contained in the Texas Register and the Texas Administrative Code.

S.B. 877 by Santiesteban Human Resources
Relating to the use of marihuana for medical and research purposes.

S.B. 878 by Traeger State Affairs
Amending Article 5931-12 of Title 97A National Guard Armory Board; making more comprehensive the procedures Texas National Guard Armory Board may follow in connection with the refunding of their bonds and other evidences of indebtedness; making the Act cumulative; providing for severability; and declaring an emergency.

S.B. 879 by Traeger State Affairs
Relating to the capacities of containers of imported beer which may be approved for sale in this state; amending Chapter 101 of the Alcoholic Beverage Code, by adding a new Section 101.441; and declaring an emergency.

S.B. 880 by Traeger Economic Development
Relating to the establishment of premium rates, rate schedules, classification of risks and reporting of experience on insured risks in this State; amending Articles 5.04, 5.14, 5.15, 5.25, 5.60, 5.61, and 5.83 of the Insurance Code.

S.B. 881 by Short Finance
Relating to exemption of certain intangible property and automobiles from ad valorem taxation and to state payments to replace the lost local revenue.

S.B. 882 by Schwartz Education
Authorizing the Board of Regents of The University of Texas System to lease the Jennie Sealy Hospital and the R. Waverly Smith Pavilion, located in Galveston County, Texas, for the use and benefit of The University of Texas Medical Branch at Galveston; amending Subsections (a), (b), and (d) of Section 74.002, Texas Education Code, as amended; and declaring an emergency.

S.B. 883 by Snelson Education
To change the duties and powers of the State Board of Education with regard to the permanent and available school funds to conform to sound, current investment practice; removing the requirement that bonds of school districts of the state be first offered for purchase to the State Board of Education; authorizing the use of a bank "lock-box" system to speed collection of income to the available school fund; authorizing participation in a fully secured stock and bond loan program to increase the earnings of the available school fund; amending Section 15.02(a)(5), Section 15.03, and Section 15.11(f), Texas Education Code; repealing Subsections (b) through (g) of Section 15.02, Texas Education Code; adding Section 15.13 and Section 15.14, Texas Education Code; and declaring an emergency.

S.B. 884 by Snelson Human Resources
Relating to licensing and regulation of counselors; and providing penalties.

S.B. 885 by Andujar State Affairs
Increasing the time for notifying the Department of Public Safety after the applicant for or holder of a driver's license moves or when the name of the licensee changes due to marriage or otherwise; amending Section 20, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941, as amended (Article 6687b, Vernon's Texas Civil Statutes).

S.B. 886 by Andujar Jurisprudence
Relating to the offense of interference with child custody.

S.B. 887 by Andujar Finance
Relating to the sales and use taxation of monetized bullion.

S.B. 888 by Parker Natural Resources
Relating to the boundaries of the Lower Neches Valley Authority.

S.B. 889 by Parker Natural Resources
Relating to coastal preservation.

S.B. 890 by Parker Intergovernmental Relations
Relating to the authority of a general law city or town to close a street or alley.

S.B. 891 by Parker State Affairs
Relating to membership in the appointive officer or employee class of the Employees Retirement System of Texas.

S.B. 892 by Parker Economic Development
Relating to fair trade practices in the soft drink industry.

S.B. 893 by Parker Intergovernmental Relations
Relating to the terms of court of the 253rd District Court.

S.B. 894 by Parker Education
Relating to establishing standards for the accreditation of librarians and standards for libraries in public schools.

S.B. 895 by Parker Economic Development
Relating to overtime to be paid to certain employees.

S.B. 918 by Jones of Harris Finance
Making an appropriation for payment of attorney fees under provisions of Article 26.055 C.C.P.

S.C.R. 40 by Brooks Human Resources
Encouraging nursing home administrators to provide diversified programs such as adult day care, adult health care, congregate living, respite care and nutrition for elderly and handicapped persons living in community.

S.C.R. 41 by Parker State Affairs
Requesting the Employees Retirement System of Texas to conduct a study of the feasibility of providing service credit to county child welfare workers who were not members of the System during their entire employment as child welfare workers subject to supervision by the State Department of Public Welfare.

MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and was filed with the Secretary of the Senate:

Austin, Texas
March 8, 1979

TO THE SENATE OF THE SIXTY-SIXTH LEGISLATURE, REGULAR SESSION:

Pursuant to the provisions of Section 5, Article III of the Constitution of Texas, I herewith submit as emergency matters the following:

- 1) An emergency appropriation to the Board of Control to repair cooling tower and structural damage to the Sam Houston State Office Building from the Capitol Complex Building Fund (Fund 7), not to exceed \$894,936.00.
- 2) An emergency appropriation to the Judiciary Section of the Comptroller's Department for payment of expenses under Article 26.005 of the Code of Criminal Procedure from the General Revenue Fund, not to exceed \$250,000.00.

Respectfully submitted,

/s/W. P. Clements, Jr.
Governor of Texas

SENATE BILL 554 REREFERRED

On motion of Senator Jones of Harris and by unanimous consent, **S.B. 554** was withdrawn from the Committee on Economic Development and rereferred to the Committee on Human Resources.

CONSIDERATION OF NOMINATIONS

The President announced that the time had arrived for the Senate to consider the nominations to agencies, boards and commissions. (Notice of submission of these names having been given by Senator McKnight yesterday.)

EXECUTIVE SESSION

Senator Andujar moved the Senate meet in Executive Session to consider the nominations.

There was no objection.

Accordingly, the President at 11:10 o'clock a.m. directed all those not entitled to attend the Executive Session of the Senate to retire from the Senate Chamber and instructed the Sergeant-at-Arms to close all doors leading from the Chamber.

IN LEGISLATIVE SESSION

At the conclusion of the Executive Session, the President called the Senate to order In Legislative Session at 11:26 o'clock a.m. today.

REPORT OF STANDING COMMITTEE

Senator McKnight submitted the following report for the Committee on Nominations:

TO THE SENATE OF THE SIXTY-SIXTH LEGISLATURE, REGULAR SESSION:

We, your Subcommittee on Nominations, to which were referred the attached appointments, have had same under consideration, and beg to report them back to the Senate for final consideration.

To be Members of the BOARD OF REGENTS, EAST TEXAS STATE UNIVERSITY: William Garland Button, Dallas County; Dr. James Harlan Granberry, Lubbock County.

To be Members of the BOARD OF REGENTS, TEXAS EASTERN UNIVERSITY: Bob Nall, Smith County; Dr. Gene Wesley Hightower, Van Zandt County; Otis Dunagan, Smith County.

To be a Member of the STATE BOARD OF TRUSTEES, EMPLOYEES RETIREMENT SYSTEM OF TEXAS: Robert E. Johnson, Travis County.

To be Members of the BOARD OF REGENTS, STEPHEN F. AUSTIN STATE UNIVERSITY: Mrs. George P. Cullum, Jr., Dallas County; Glenn W. Justice, Collin County; Ernest Powers, Panola County.

To be Members of the TEXAS BOARD OF MENTAL HEALTH AND MENTAL RETARDATION: Mrs. Marvin (Ellie) Selig, Guadalupe County; L. Gray Beck, Tom Green County.

To be STATE AUDITOR OF TEXAS: George W. McNiel, Travis County.

PENDING BEFORE THE SENATE: UNIVERSITY SYSTEM OF SOUTH TEXAS, BOARD OF DIRECTORS: Joe Bishop, Tarrant County.

Senator Andujar moved confirmation of the nominees reported by the Subcommittee on Nominations.

The President asked if there were requests to sever.

Senator Truan requested that Mr. Joe Bishop, to be a Member of the Board of Directors, University System of South Texas, be severed.

The request was granted.

NOMINEES CONFIRMED

The nominees as reported and not severed by the Subcommittee on Nominations were confirmed by the following vote: Yeas 28, Nays 0.

Absent-excused: Mauzy, McKnight, Vale.

Mr. Bishop was then confirmed to be a Member of the Board of Directors, University System of South Texas, by the following vote: Yeas 24, Nays 4.

Yeas: Andujar, Blake, Braecklein, Clower, Creighton, Farabee, Harris, Howard, Jones of Harris, Jones of Taylor, Kothmann, Longoria, Meier, Mengden, Moore, Ogg, Parker, Patman, Price, Santiesteban, Short, Snelson, Traeger, Williams.

Nays: Brooks, Doggett, Schwartz, Truan.

Absent-excused: Mauzy, McKnight, Vale.

PRESENTATION OF GUESTS

The President introduced to the Members of the Senate Associate Justice of the Supreme Court Robert Campbell and his daughters, Sharron and Diane.

MESSAGE FROM THE HOUSE

House Chamber
March 8, 1979

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I AM DIRECTED BY THE HOUSE TO INFORM THE SENATE THAT THE HOUSE HAS PASSED THE FOLLOWING:

S.B. 126, Amending Chapter 19 of the Water Code; providing for an appropriation; providing for the repayment of that appropriation; and declaring an emergency. (Submitted by Governor as an emergency.) (With amendment)

S.B. 387, Relating to the authority of the Secretary of State to set and collect certain fees; and amending Article 3916, Revised Civil Statutes of Texas, 1925. (With amendment)

S.B. 547, Relating to a supplemental appropriation to the Texas Board of Architectural Examiners.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

CONGRATULATORY RESOLUTIONS

S.R. 186 - By Doggett: Extending congratulations to Ben Fuelberg.

S.R. 187 - By Ogg, Mengden, Jones of Harris, Brooks and Williams: Extending congratulations to 1978 Houston Oilers.

S.R. 188 - By Parker: Extending congratulations to Essie McDonald.